

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TERENCE L. McCREARY, On Behalf of
Himself and All Others Similarly Situated,

Plaintiff,

vs.

AETNA LIFE INSURANCE COMPANY,

Defendant.

Case No. 3:08-cv-654-LRH-RAM

**STIPULATION AND (PROPOSED)
ORDER EXTENDING DEADLINES
(First Request for Extended Deadlines)**

The parties to this matter submit the following stipulation, by which they propose to extend the deadlines set forth in the Court's July 2, 2009 Order (Document 20), in light of pending settlement discussions. The parties also agree to extended briefing deadlines with respect to Plaintiff's "Motion for Clarification of July 2, 2009 Order Granting Plaintiff's Motion to Stay Ruling Upon Defendant's Motion to Dismiss Pending Discovery to Respond" (Document 21). The parties present this stipulation and proposed extensions of time stated herein in good faith and not for the purposes of delay.

1 1. On July 2, 2009, the Court entered its Order (Document 20), which granted
2 Plaintiff's Motion to Stay Ruling Upon Defendant's Motion to Dismiss Pending Discovery to
3 Respond, and ordered that "the parties are granted 60 days to conduct discovery concerning
4 whether (1) McCreary can meet the injury-in-fact element of constitutional standing, and (2)
5 whether McCreary is a 'participant, beneficiary, or fiduciary' under 29 U.S.C. § 1132(a)(3)." The
6 sixty days permitted for this certain discovery by the Court's July 2, 2009 Order expires Monday,
7 August 31, 2009.

8 2. Plaintiff filed a motion on July 24, 2009, titled, "Plaintiff's Motion for Clarification
9 of July 2, 2009 Order Granting Plaintiff's Motion to Stay Ruling Upon Defendant's Motion to
10 Dismiss Pending Discovery to Respond" (the "Motion for Clarification") (Document 21).
11 Defendant Aetna Life Insurance Company's response to the Motion for Clarification is due
12 Tuesday, August 11, 2009.

13 3. The parties have engaged in numerous communications discussing the substance of
14 the issues presented in Plaintiff's complaint and are engaged in an effort to determine the
15 possibility of dispute resolution. On Wednesday, August 5, 2009, the parties met in Reno,
16 Nevada, with Plaintiff represented by his lawyers Curtis B. Coulter, Matthew L. Sharp, Ron R.
17 Parry and Rob Sparks and Aetna represented by its outside lawyers Richard J. Doren, Tammy
18 Stafford and Von S. Heinz, as well as in-house counsel. Among other things, at the August 5,
19 2009 meeting, Plaintiff and Aetna each agreed to gather additional facts and perform additional
20 investigation so as to prepare for and enable another meeting between them in September to
21 determine whether or not a resolution may be achieved.

22 4. So that the parties may continue to focus their efforts on the possibility of dispute
23 resolution and respond to informal requests for information relating to potential resolution, they
24 have agreed as follows:

25 a. The current discovery deadline of August 31, 2009, permitted by the Court's July
26 2, 2009 Order, should be extended for an additional seventy-five (75) days, through and including
27 November 13, 2009.

28

b. The current deadline for Plaintiff's opposition to Aetna's Motion to Dismiss and Aetna's Reply, provided by the Court's July 2, 2009 Order, should also be extended by seventy-five (75) days, with Plaintiff's opposition due twenty (20) days after the conclusion of the discovery period, December 3, 2009, and Aetna's Reply due fifteen (15) days after the opposition.

c. Aetna's current deadline of August 11, 2009 to respond to Plaintiff's Motion for Clarification shall be extended ~~sixty-two (62)~~ **thirty (30) days, through and including Monday, October 12 Friday, September 11, 2009.**

d. The parties agree to enter into a voluntary stay of discovery for sixty (60) days while they discuss the possibility of dispute resolution. This stay includes extending all deadlines by sixty (60) days for currently pending discovery requests between the parties, including Plaintiff's pending written discovery requests to Aetna and notices of depositions for testimony from Aetna, as well as Aetna's pending written discovery requests to Plaintiff and a notice of deposition for testimony from Plaintiff.

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Dated: August 10, 2009

and

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Attorneys for Plaintiff Terence L. McCreary
Dated: August 10, 2009

NO FURTHER EXTENSIONS SHALL BE GRANTED.

IT IS SO ORDERED.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
DATED: August 11, 2009